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Paper No. 5

SYMYX TECHNOLOGIES INC
LEGAL DEPARTMENT
3100 CENTRAL EXPRESS
SANTA CLARA, CA 95051

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OFFICE OF PETITIONS

In re Application of :
H. Sam Bergh et al : DECISION GRANTING
Application No. 09/801,390 : PETITION
Filed: March 7, 2001 :
Attorney Docket No. 2000-022R1 :

This is a decision on the petition under 37 CFR 1.10(c) filed August 2, 2001, requesting that the above-identified application be accorded a filing date of March 7, 2001, rather than the presently accorded filing date of March 8, 2001.

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on March 7, 2001. In support, applicants provided a copy of the Express Mail label, receipt no. EL418494554US, showing a Date-In of March 7, 2001. The same Express Mail receipt number was referred to in the copy of the original Application Transmittal Letter submitted with the instant petition. Applicants request that the application be accorded a filing date of March 7, 2001.

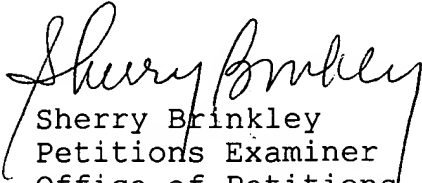
The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on March 14, 2000.

The petition is granted.

Receipt is acknowledged of the declaration filed August 2, 2001, in response to the Notice mailed July 11, 2001.

The application is being returned to Initial Patent Examination Division for further processing using the declaration filed August 2, 2001 and for correction of the filing date to March 7, 2001.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

A handwritten signature in cursive script, reading "Sherry Brinkley". The signature is written in dark ink and is positioned to the left of the printed name and title.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy